IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

LA.App..No. 961 of 2005(A)

LAR.142/2000 of PRL.SUB COURT, KOZHIKODE
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APPELLANT: RESPONDENT NO.3

BEYPORE GRAMA PANCHAYATH,
REP. BY ITS SECRETARY, BEYPORE, KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: RESPONDENT
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1. P.SANKARAN, S/O.PERACHAN,
28/1188 KAKKADATH HOUSE, VALIYAPARAMBATH,
P.O.CHEVAYUR, KOZHIKODE.

2. THE SPECIAL TAHSILDAR L.A.,
NH NO.1, KOZHIKODE.

3. THE DISTRICT PANCHAYATH OFFICER,
KOZHIKODE.

R1 BY ADV. SRI.JACOB ABRAHAM

GOVERNMENT PLEADER SMT. K.R.DEEPA

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 01/10/2007 ALONG WITH LAA 607/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.Nos.961/2005 & 607/2007

Dated: OCTOBER 1, 2007

JUDGMENT

Kurian Joseph, J.

These appeals are filed by the requisitioning authority and the State respectively against the judgment and decree in LAR No.142/2000 on the file of the Sub Court, Kozhikode. The acquisition is for the purpose of setting up a play ground in Beypore Grama Panchayat . The total extent involved in this case 5.2611 cents of garden land and 0.741 cent of wet land. The Reference Court has fixed land value at Rs.20,000/- per cent for garden land and Rs.17,000/- per cent for wet land.

2. Though the learned counsel for the panchayat as well as the learned Government Pleader took up several contentions regarding the merits of the case, in view of the fact that the panchayat has suffered an award by the land acquisition officer for the property acquired for the extension of the play ground subsequently wherein the land value is fixed at Rs.17892/- per cent, we do not think it necessary to go into the various contentions taken by the parties. Sri Kunhikrishnan, learned counsel for the panchayat, vehemently contended that it is an acquisition in which S.4 (1) notification was issued after two years. But it has to be seen that in respect of the said acquisition of 96 cents, the basic document relied on by the land acquisition officer is one executed after 36 days after the earlier S.4(1) notification. It has been noted that the land value in the

basic document in that case is Rs.19880/- per cent. Relying on that document, the land acquisition officer fixed Rs.17892/- per cent for 96 cents of land which lies behind the property under acquisition in this case. In this case the total extent is only about 6 cents. In view of the factual matrix as above, we do not think that the fixation made by the Reference Court is in any way unjust or unreasonable. The Reference Court has only made a proper fixation of land value by making a fair fixation of market value. However, we find that the Reference Court has granted Rs.17000/- per cent for the wet land which, in our opinion, is not proper. According to the land acquisition officer, 30% has to be reduced from the value of the garden land for fixing the value of the wet land. Therefore, the land value as far as the wet land is concerned has to be re-fixed. The value for the wet land will be only 70% of the value of the garden land viz. Rs.14000/- per cent with eligible statutory benefits.

These appeals are partly allowed as above.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE.

mt/-